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June 26, 1995

VIA HAND DELIVERY

Mr. William Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M. Street, N.W.
Washington, DC 20554

EX PARTE

RECEIVED
JUN 26 1995
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re: **In the Matter of Market Entry and Regulation
of Foreign-Affiliated Entities
IB Docket No. 95-22**


Dear Mr. Caton:

On June 23, 1995, Encarnita Catalán-Marchán, Paul MacAvoy, Michael Doane and Alfred Mamlet, on behalf of Telefónica Larga Distancia de Puerto Rico, Inc. ("TLD"), had three meetings with the following people:

1. International Bureau - Scott Blake Harris, Peter Cowhey and Troy Tanner
2. Chairman Hundt's Office - Julius Genachowski
3. Office of Plans and Policy - Michael Katz

Since these meetings concluded at the end of the day, it was not possible to make an ex parte filing on Friday. At these meetings we discussed TLD's comments and supporting economic study in the above-referenced proceeding and shared copies of the attached presentation.

Respectfully Submitted,


Alfred M. Mamlet
Counsel for Telefonica Larga Distancia
de Puerto Rico, Inc.

Enclosure

cc: Scott Blake Harris
Peter Cowhey
Troy Tanner
Julius Genachowski
Michael Katz

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FOREIGN AFFILIATED-CARRIER NPRM



OVERVIEW

- LAW
 - ▶ JURISDICTION
- ECONOMICS
 - ▶ TRADE POLICY
 - ▶ SAFEGUARDS
 - ▶ COMPETITION
- DO THE RIGHT THING



FCC LACKS JURISDICTION

- NO STATUTORY BASIS FOR FCC JURISDICTION
 - ▶ SECTION 301 AND TELECOMMUNICATIONS TRADE ACT GIVE AUTHORITY TO USTR
 - ▶ CONGRESS CREATED AUTHORITY ON TRADE UNDER SECTIONS 35, 308(C)
 - ▶ CONGRESS REJECTED BILL TO GIVE FCC AUTHORITY UNDER 214
 - ▶ AMERICATEL AND INTERNATIONAL RESALE DECISIONS DO NOT SUPPORT JURISDICTION



FCC LACKS JURISDICTION (2)

- FCC AND EXECUTIVE BRANCH HAVE PREVIOUSLY CONCLUDED FCC LACKS JURISDICTION
 - ▶ 1980 CABLE DECISION ACKNOWLEDGED LACK OF JURISDICTION
 - ▶ 1987 NPRM REJECTED PROPOSED APPROACH
 - ▶ 1995 EXECUTIVE BRANCH COMMENTS DO NOT PROVIDE FCC WITH BASIS FOR GOING FORWARD
- FCC ACTION WOULD CONFLICT WITH GATS

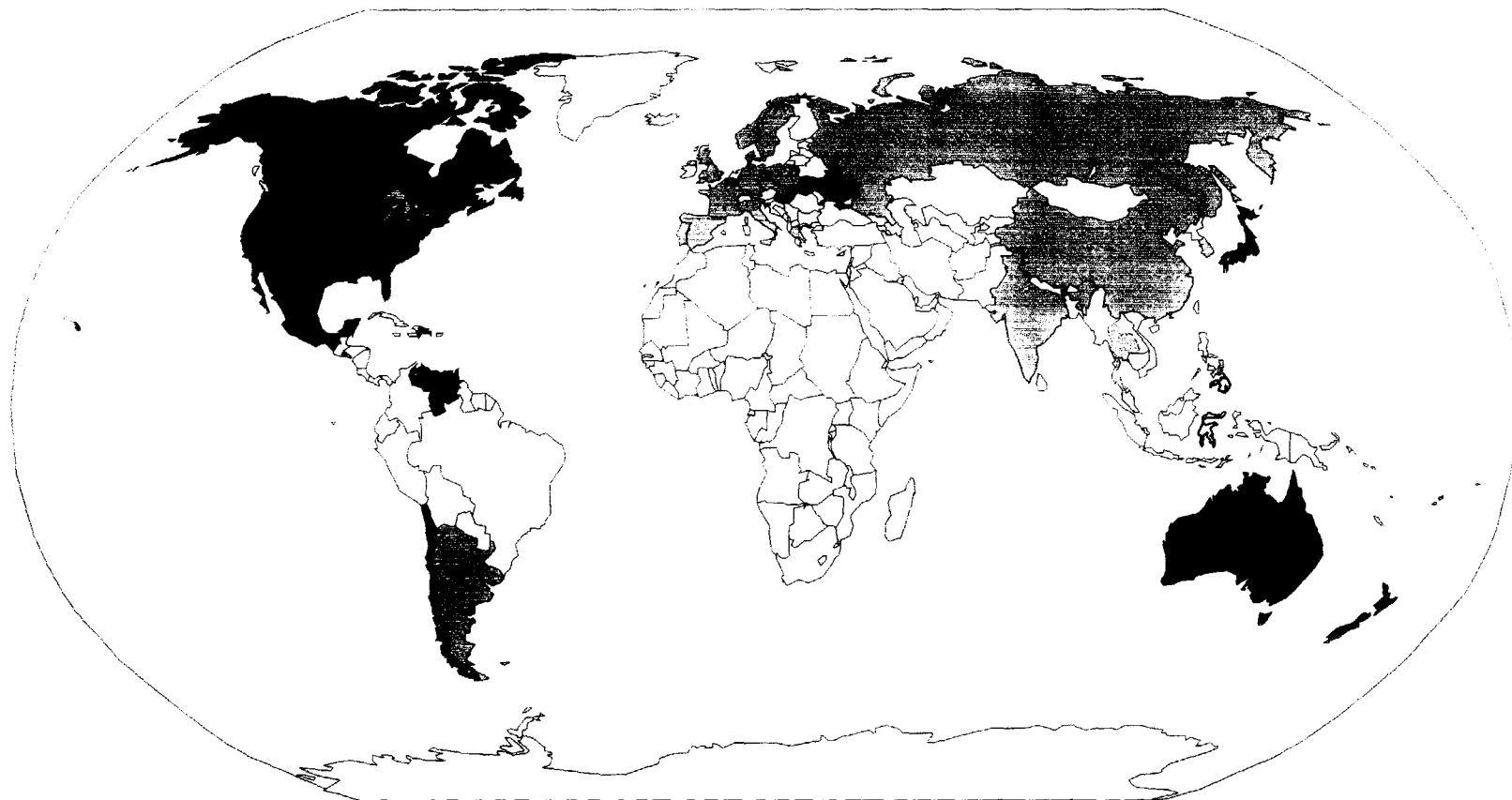


PROPOSED RULE WOULD NOT PROMOTE OPEN ENTRY

- TELECOM LIBERALIZATION NOT AMENABLE TO TRADE INFLUENCE
- FCC DOES NOT HAVE ENOUGH CARROTS AND STICKS
- PROPOSED RULE WOULD INVITE RETALIATION



COUNTRIES WHERE U.S. CARRIERS HAVE INVESTMENTS IN PROVIDERS OF TELECOMMUNICATIONS SERVICES





U.S.-SPAIN BILATERAL TELECOMMUNICATIONS INVESTMENTS

- U.S. INVESTMENTS IN SPAIN

- ▶ AIRTOUCH IS LEAD PARTICIPANT IN AIRTEL CONSORTIUM THAT PAID \$654 MILLION FOR PCS LICENSE
- ▶ US WEST AND TIME WARNER HAVE INVESTED \$2.6 BILLION IN CABLE TV FRANCHISE
- ▶ AT&T INVESTED \$300 MILLION IN TWO EQUIPMENT MANUFACTURING PLANTS
- ▶ AT&T AND MOTOROLA ARE MAJOR EQUIPMENT SUPPLIERS

- SPANISH INVESTMENTS IN U.S.

- ▶ TI PURCHASED 79% OF TLD FOR \$112 MILLION
- ▶ TI OWNS 14.9% OF TUPR

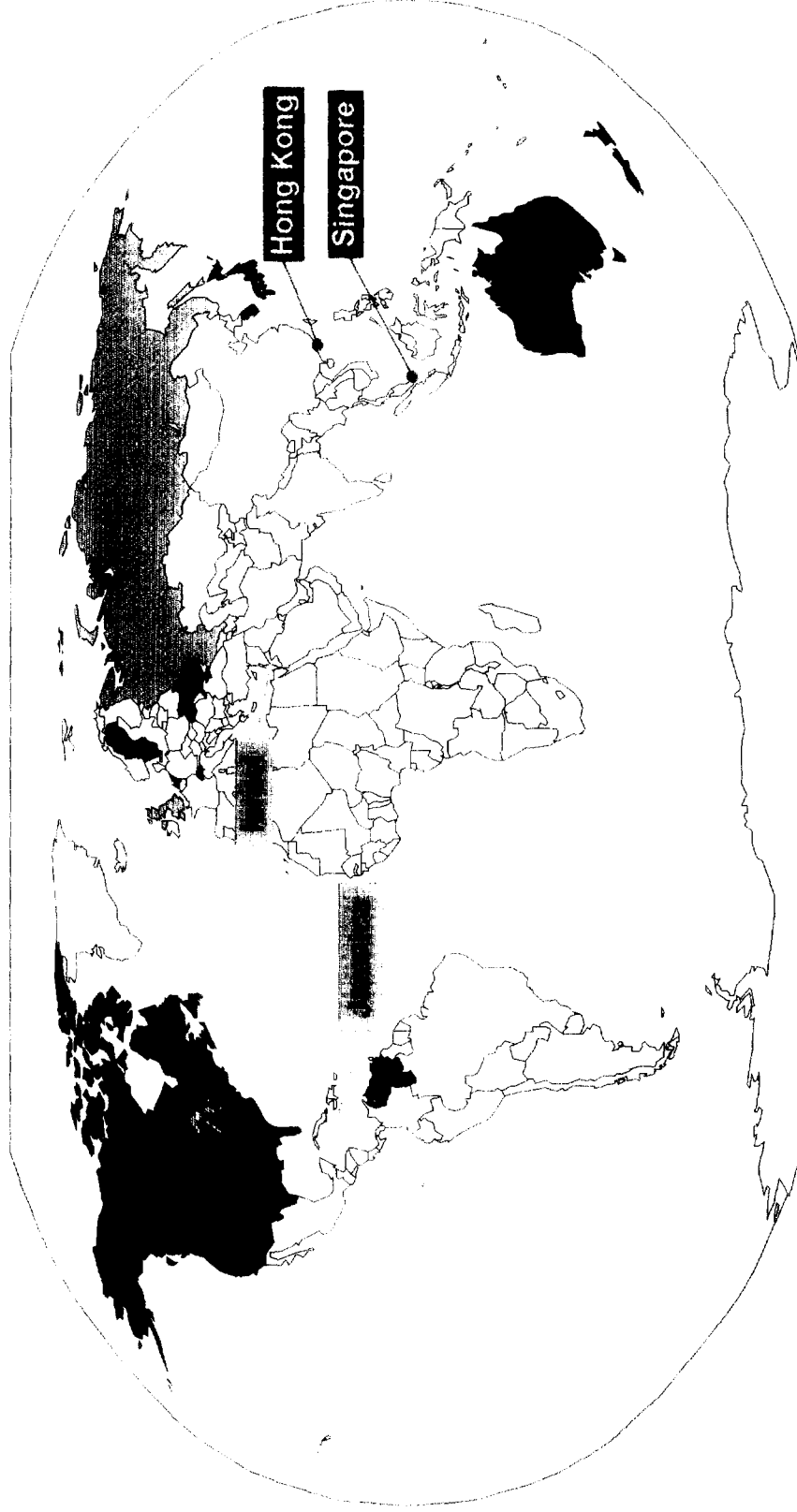


PROPOSED RULE WOULD BE DOUBLE STANDARD

- **EXCLUDES US INVESTMENTS IN FOREIGN CARRIERS**
- **EXCLUDES WORLDPARTNERS**



AT&T INTERNATIONAL AFFILIATES





COMPARISON OF AT&T AND TLD AFFILIATED TRAFFIC (1993)

<u>COUNTRY</u>	<u>AT&T AFFILIATED TRAFFIC</u> <u>(MINUTES)</u>	<u>TLD AFFILIATED TRAFFIC</u> <u>(MINUTES)</u>
CANADA	1,458,241,019	0
UKRAINE	7,637,906	0
VENEZUELA	55,712,871	637,262
AUSTRALIA	76,186,061	0
JAPAN	223,838,531	0
HONG KONG	72,319,236	0
NETHERLANDS	68,801,141	0
NEW ZEALAND	14,292,866	0
SINGAPORE	31,884,215	0
SOUTH KOREA	129,370,509	0
SWEDEN	39,101,383	0
SWITZERLAND	63,789,791	0
ARGENTINA	0	169,585
CHILE	0	88,208
SPAIN	0	622,699
TOTAL AFFILIATED TRAFFIC	2,241,175,529	1,517,754
ALL INTERNATIONAL TRAFFIC	7,234,974,628	22,881,498

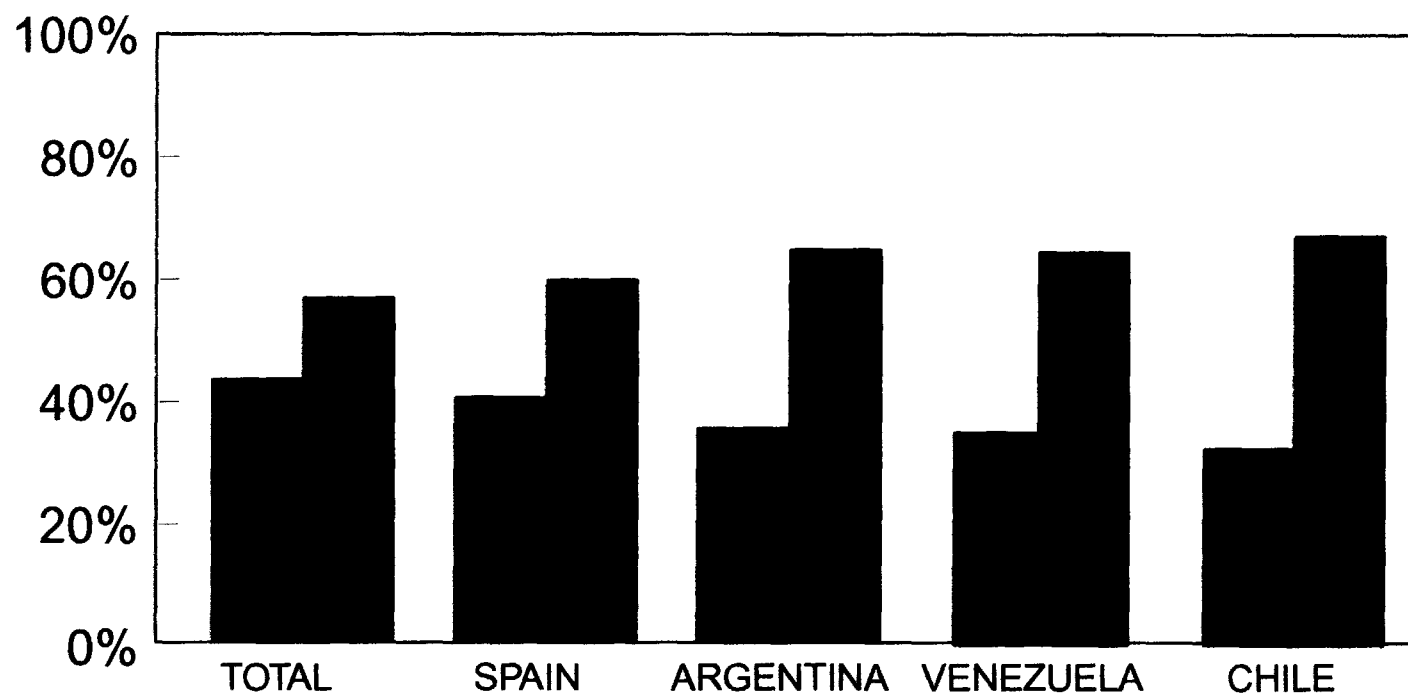


CURRENT SAFEGUARDS ARE SUFFICIENT

- **COMMISSION ALREADY HAS ELABORATE SET OF SAFEGUARDS THAT WORK WELL**
- **NO EVIDENCE THAT SAFEGUARDS HAVE FAILED**
- **AT&T'S THREE CONCERNS ARE HYPOTHETICAL AND COVERED BY FCC RULES**
 - ▶ **DISPROPORTIONATE RETURN TRAFFIC**
 - ▶ **DISCRIMINATORY INTERCONNECTIONS**
 - ▶ **ACCOUNTING RATE PRICE SQUEEZE**



AT&T AND TLD MARKET SHARE (PUERTO RICO 1993)



■ TLD
■ AT&T



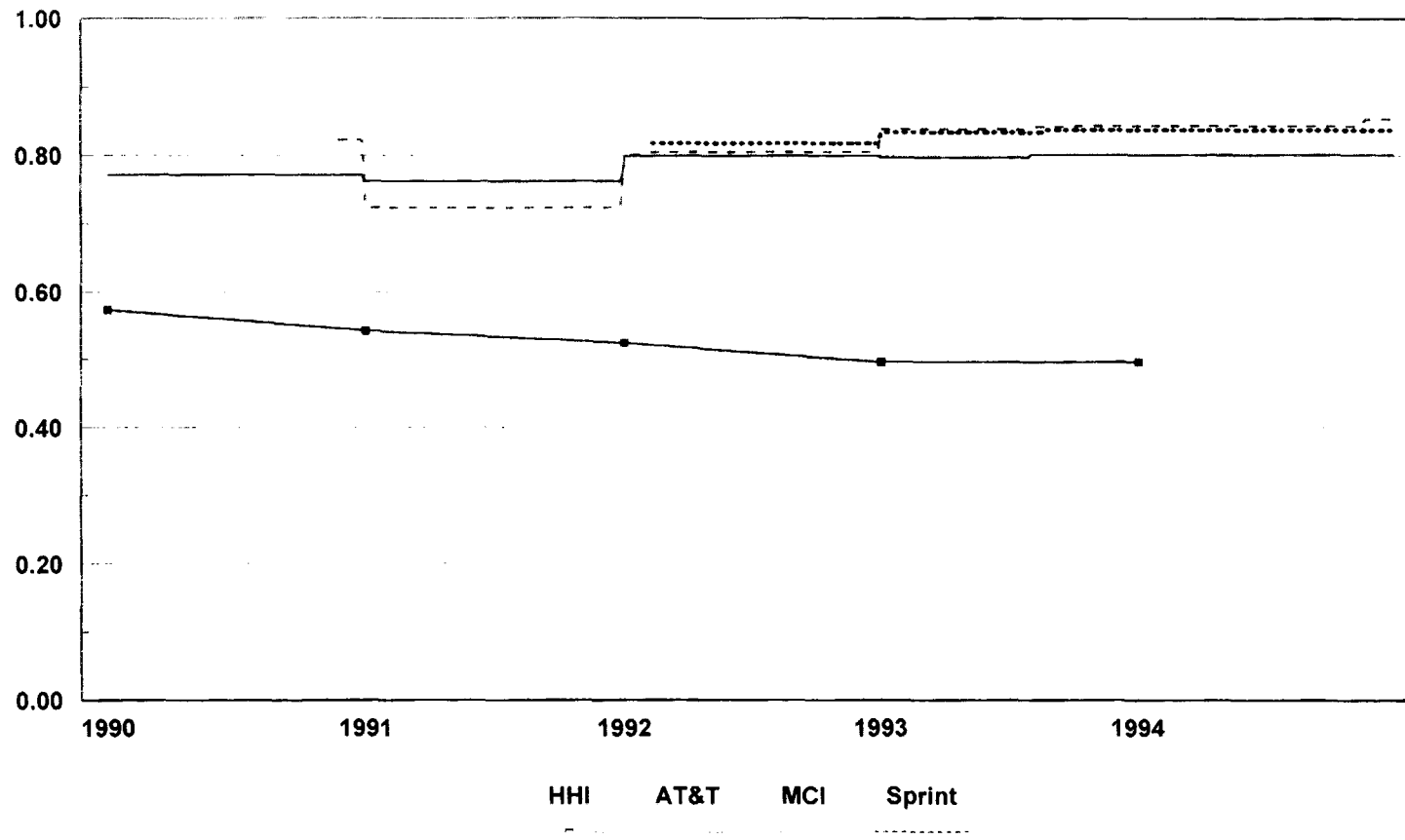
COMPETITION IN INTERNATIONAL MARKETS

- CONCENTRATION INDICES ARE HIGH, BUT DECLINING. PROFIT MARGINS WOULD DECLINE IF MARKET WERE COMPETITIVE
- MARGINS HAVE INCREASED DESPITE DECLINES IN CONCENTRATION
- MARGINS ARE NOT LOWER IN MARKETS WITH LOWER CONCENTRATIONS
- PRICE-COST MARGINS EXCEED 0.70, WHICH IS A HIGHER LEVEL THAN IN OTHER HIGHLY CONCENTRATED INDUSTRIES
- FACILITIES-BASED COMPETITION BY NEW ENTRANTS COULD MAKE THESE MARKETS MORE COMPETITIVE



IMTS PRICE-COST MARGINS FOR LONG-DISTANCE CALLS FROM U.S. TO UNITED KINGDOM

Price Cost Margin and HHI



HHIs AND STANDARD IMTS PRICE-COST MARGINS (1994)

		Price Cost Margins
Country	HHI	
	0.42	
	0.55	
	0.50	
	0.56	
	0.43	
	0.49	
	0.52	
	0.56	



EVEN LARGEST U.S. CARRIERS NEED ACCESS TO FOREIGN CAPITAL TO COMPETE AGAINST AT&T

CARRIER	1993
	TOTAL TOLL REVENUES
AT&T	\$35,731,000,000
MCI	\$10,947,000,000
SPRINT	\$ 6,139,000,000
LDDS	\$ 2,222,000,000
C&W	\$ 557,000,000



DO THE RIGHT THING

- MAINTAIN CURRENT POLICY
- LIMIT APPLICABILITY OF ANY NEW RULE TO AFFILIATED ROUTES
 - ▶ BEST CASE FOR JURISDICTION
 - ▶ SAFEGUARD U.S. MARKET
 - ▶ PROMOTES COMPETITION